

### § 3601.43

(b) A map or sketch which delineates the area you will reclaim; and

(c) Such other information as BLM may require.

#### **§ 3601.43 What is the process for BLM to approve my mining and reclamation plans?**

(a) After reviewing your mining and reclamation plans, BLM will notify you of any deficiencies in the plans and recommend the changes necessary. BLM will notify you in writing when we approve your plan. You must follow BLM-approved mining and reclamation plans, which become part of the contract or permit.

(b) Your operation must not deviate from the plan BLM approves, unless it is modified under § 3601.44.

#### **§ 3601.44 How and when may my mining or reclamation plan be modified?**

(a) Either you or BLM may initiate a modification of an approved mining or reclamation plan to adjust for changed conditions or to correct any oversight. BLM will consult with you before requiring a modification.

(b) If BLM notifies you that you must modify your plan, you must prepare the modification, or explain why you need more time, within 30 days. If you fail to modify your plan to BLM's satisfaction, BLM may order you to stop operations under your contract or permit.

(c) When you ask to change an approved mining or reclamation plan for one of the reasons in paragraph (a) of this section, BLM will notify you in writing within 30 days whether we approve the modification, deny it, or require any changes in it.

#### **CONTRACT AND PERMIT ADMINISTRATION**

#### **§ 3601.50 Administration of sales contracts and free use permits.**

#### **§ 3601.51 How will BLM inspect my operation?**

You must allow BLM access at any reasonable time:

- (a) To inspect or investigate the mine condition;
- (b) To conduct surveys;

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(c) To estimate the volume, types, and composition of commodities that you mine or remove;

(d) To examine weight tickets, truck logs, and other records that BLM finds necessary to verify production; or

(e) To determine whether you comply with contract, permit, statutory, or regulatory requirements.

[66 FR 58901, Nov. 23, 2001; 67 FR 68778, Nov. 13, 2002]

#### **§ 3601.52 After I finish my operations, when must I remove improvements and equipment?**

After your contract or permit period expires, or after cancellation of your permit or contract, BLM will allow you up to 90 days, excluding periods of inclement weather, to remove the equipment, personal property, and any other improvements that you placed on the public lands. You may leave in place improvements such as roads, culverts, and bridges if BLM consents. If you fail to remove equipment, personal property, or any other improvement, it becomes the property of the United States. However, you remain liable for the cost of its removal and for restoration of the site.

#### **CONTRACT AND PERMIT CANCELLATION**

#### **§ 3601.60 Cancellation.**

#### **§ 3601.61 When may BLM cancel my contract or permit?**

BLM may cancel your contract or free use permit if you:

(a) Fail to comply with the provisions of the Materials Act of 1947, as amended (30 U.S.C. 601 *et seq.*);

(b) Fail to comply with any applicable regulations; or

(c) Default in the performance of any material term, covenant, or stipulation in the contract.

#### **§ 3601.62 Cancellation procedure.**

(a) BLM will give you written notice of any defaults, breach, or cause of forfeiture, either in person or by certified mail. You have 30 days after receiving the notice:

- (1) To correct all defaults;
- (2) To request an extension of time in which to correct the defaults; or

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(3) To submit evidence showing to BLM's satisfaction why we should not cancel your contract or free use permit.

(b) If you fail to respond to the notice under paragraph (a) of this section, or if delivery of the notice is refused, or not completed as described in §1810.2 of this chapter, BLM may cancel the contract or permit.

### UNAUTHORIZED USE

#### § 3601.70 Unauthorized use.

##### § 3601.71 What constitutes unauthorized use?

(a) Except as provided in paragraph (b) of this section, you must not extract, sever, or remove mineral materials from public lands under the jurisdiction of the Department of the Interior, unless BLM or another Federal agency with jurisdiction authorizes the removal by sale or permit. Violation of this prohibition constitutes unauthorized use.

(b) If you own the surface estate of lands with reserved Federal minerals, you may use mineral materials within the boundaries of your surface estate without a sales contract or permit only in the following circumstances:

(1) You use a minimal amount of mineral materials for your own personal use;

(2) You have statutory authority to use the mineral materials; or

(3) You have other express authority to use the mineral materials.

##### § 3601.72 What are the consequences of unauthorized use?

Unauthorized users are liable for damages to the United States, and are subject to prosecution for such unlawful acts (see subpart 9239 of this chapter).

### APPEALS

#### § 3601.80 How do I appeal a final decision by BLM?

If a BLM decision adversely affects you, you may appeal the decision in accordance with parts 4 and 1840 of this title.

## Subpart 3602—Mineral Materials Sales

### APPLICATIONS

#### § 3602.10 Applying for a mineral materials sales contract.

#### § 3602.11 How do I request a sale of mineral materials?

(a) You may submit a written request for sale of mineral materials to the BLM office with jurisdiction over the site containing the materials. No particular form is required for this request.

(b) BLM also may initiate a sale without a request under paragraph (a) of this section.

(c) You must pay a processing fee as provided in §§3602.31(b) and 3602.44(f). If the request is for mineral materials that are from a community pit or common use area this requirement does not apply.

[66 FR 58901, Nov. 23, 2001, as amended at 70 FR 58878, Oct. 7, 2005; 72 FR 50888, Sept. 5, 2007]

#### § 3602.12 How does the mineral materials sales process affect other users of the same public lands?

(a) When BLM designates tracts for competitive or noncompetitive sale of mineral materials, and notes the designation in the public land records, it creates a right to remove the materials superior to any subsequent claim, entry, or other conflicting use of the land, including subsequent mining claim locations.

(b) The superior right under paragraph (a) of this section is part of all contracts and permits BLM authorizes within 2 years after the date we designate the tract. BLM may extend this 2-year period for one additional year for good cause. The right continues for the entire term of the contract or permit and any renewal term. The superior right under paragraph (a) of this section also applies to any subsequent contracts or permits that BLM authorizes within 2 years after the previous contract or permit expires or terminates.